

**SENATE BILL**

**No. 16**

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**Introduced by Senator Calderon**

April 6, 2010

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An act to add Part 13.3 (commencing with Section 31001) to Division 2 of, and to add and repeal Section 31006 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 16, as introduced, Calderon. Taxation: marijuana.

Existing law provides for the imposition of various taxes within the state, including taxes upon the distribution of cigarettes and tobacco products.

This bill would, commencing on and after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose a tax on the distribution, as defined, of medical marijuana, as defined, at a rate that is equivalent to that imposed upon tobacco products under the Cigarette and Tobacco Products Tax Law and would require the taxes to be administered in accordance with the provisions of the Fee Collection Procedures Law, as provided. The revenues collected from the tax would be deposited in the Cannabis Tax Account, which would be created by the measure. This bill would also require the State Board of Equalization, in consultation with the California Health and Human Services Agency, to report on the impact of taxation of the distribution of medical marijuana within the state.

Because this bill would expand the application of the provisions of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 13.3 (commencing with Section 31001) is  
2 added to Division 2 of the Revenue and Taxation Code, to read:

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#### PART 13.3. CANNABIS TAX LAW

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6 31001. This part shall be known and may be cited as the  
7 Cannabis Tax Law.

8 31002. For purposes of this part:

9 (a) "Cannabis" means all parts of the plant *Cannabis sativa* L.,  
10 whether growing or not; the seeds thereof; the resin extracted from  
11 any part of the plant; and every compound, manufacture, salt,  
12 derivative, mixture, or preparation of the plant, its seeds, or resin.  
13 It does not include the mature stalks of the plant, fiber produced  
14 from the stalks, oil, or cake made from the seeds of the plant, any  
15 other compound, manufacture, salt, derivative, mixture, or  
16 preparation of the mature stalks (except the resin extracted  
17 therefrom), fiber, oil, or cake, or the sterilized seed of the plant  
18 which is incapable of germination.

19 (b) "Distribution" or "distributes" means the sale in this state  
20 of untaxed cannabis, other than the lawful sale of untaxed medical  
21 marijuana to a collective or cooperative, as described in Article  
22 2.5 (commencing with Section 11362.7) of Chapter 6 of Division  
23 10 of the Health and Safety Code.

24 (c) "Distributor" means every person who distributes cannabis.

(d) “Medical marijuana” means marijuana that is regulated under Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

31003. There shall be imposed upon every distributor a tax upon the distribution of cannabis at a rate equal to the tobacco products tax rate, as determined pursuant to Part 13 (commencing with Section 30001), for cannabis distributed on and after the first day of the first calendar quarter commencing more than 90 days after the effective date of this part.

31004. The board shall administer this tax in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)), or its successor statute, with such changes as to substitute “cannabis” for “tobacco products,” to the extent that Part 30, or its successor statute, is not inconsistent with this part.

31005. All revenues, less refunds, derived from a tax imposed pursuant to this part shall be transferred to the Cannabis Tax Account, which is hereby created in the General Fund.

31006. (a) On or before six months from the operative date of this bill, the board, in consultation with the California Health and Human Services Agency, shall report on the effect of taxation on the distribution of medical marijuana within the state.

(b) (1) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed four calendar years from the date upon which the board makes its report to the Legislature.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the

- 1 first day of the first calendar quarter commencing more than 90
- 2 days after the effective date of this act.

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